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3 **BEFORE THE**  
4 **BOARD OF PHARMACY**  
5 **DEPARTMENT OF CONSUMER AFFAIRS**  
6 **STATE OF CALIFORNIA**

7 In the Matter of the Accusation Against:

Case No. 4353

8 **JASON DANIEL CASEY**  
9 655 EUCALYPTUS AVENUE  
10 NEWMAN, CA 95360

**DEFAULT DECISION AND ORDER**

11 TECHNICIAN REGISTRATION NO. TCH 85822

[Gov. Code, §11520]

12 Respondent.

13 **FINDINGS OF FACT**

14 1. On or about May 18, 2016 Complainant Virginia K. Herold, in her official capacity as  
15 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
16 Accusation No. 4353 against Jason Daniel Casey (Respondent) before the Board of Pharmacy.  
(Accusation attached as Exhibit A.)

17 2. On or about August 29, 2008, the Board of Pharmacy (Board) issued Original  
18 Pharmacy Technician Registration Number TCH 85822 to Respondent.

19 3. On or about May 25, 2016 Respondent was served by Certified and First Class Mail  
20 copies of the Accusation No. 4353, Statement to Respondent, Request for Discovery, Notice of  
21 Defense (2 copies), and Government Code Sections 11507.5, 11507.6 and 11507.7, at  
22 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
23 is required to be reported and maintained with the Board. Respondent's address of record was  
24 and is: 655 Eucalyptus Avenue, Newman, CA 95360.

25 4. Service of the Accusation was effective as a matter of law under the provisions of  
26 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
27 124.  
28

5. Government Code section 11506(c) states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 4353.

7. California Government Code section 11520(a) states, in pertinent part:

(a) If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent . . . .

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 4353, finds that the charges and allegations in Accusation No. 4353, are separately and severally, found to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$3,175.00 as of September 13, 2016.

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#### DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent has subjected his Original Pharmacy Technician Registration, Number TCH 85822, to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

1           3.     The Board of Pharmacy is authorized to revoke Respondent's Original Pharmacy  
2 Technician Registration Number TCH 85822 based upon the following violations alleged in the  
3 Accusation which are supported by the evidence contained in the Default Decision Evidence  
4 Packet in this case.:

- 5           a.     Code section 4300(a), 4301(l), and 490, criminal conviction;  
6           b.     Code section 4300(a) and 4301(j), violation of laws regulating controlled substance  
7 and dangerous drugs;  
8           c.     Code section 4300(a) and 4059.5, fraudulent order of dangerous drugs;  
9           d.     Code section 4300(a) and 4301(f), dishonest acts.

10                                 ORDER

11           IT IS SO ORDERED that Original Pharmacy Technician Registration, Number TCH  
12 85822, heretofore issued to Respondent, is revoked.

13           Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
14 written motion requesting that the Decision be vacated and stating the grounds relied on within  
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17           This Decision shall become effective at 5:00 p.m. on September 20, 2017.

18           It is so ORDERED on August 21, 2017.

19                                 BOARD OF PHARMACY  
20                                 DEPARTMENT OF CONSUMER AFFAIRS  
21                                 STATE OF CALIFORNIA

22   

23  
24           By

25                                 Amy Gutierrez, Pharm.D.  
26                                 Board President

27           12430930.DOCX/ID:SA2012107017  
28           Attachment:Exhibit A: Accusation

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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4353

13 **JASON DANIEL CASEY**  
655 EUCALYPTUS AVENUE  
14 NEWMAN, CA 95360

**ACCUSATION**

15 TECHNICIAN REGISTRATION NO. TCH 85822

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 **JURISDICTION**

23 2. This Accusation is brought before the Board of Pharmacy (Board), Department of  
24 Consumer Affairs, under the authority of the following laws. All section references are to the  
25 Business and Professions Code unless otherwise indicated.

26 3. The Board of Pharmacy issued Respondent Jason Daniel Casey (Respondent)  
27 Original Pharmacy Technician Registration Number TCH 85822 on August 29, 2008. The  
28 license expired on June 30, 2012 and has not been renewed. The license is currently cancelled.

1 4. Section 4300.1 of the code states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
3 by operation of law or by order or decision of the board or a court of law, the  
4 placement of a license on a retired status, or the voluntary surrender of a license by a  
5 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
6 investigation of, or action or disciplinary proceeding against, the licensee or to render  
7 a decision suspending or revoking the license.

8 5. Section 4300 of the Code states:

9 (a) Every license issued may be suspended or revoked.

10 (b) The board shall discipline the holder of any license issued by the board,  
11 whose default has been entered or whose case has been heard by the board and found  
12 guilty, by any of the following methods:

13 (1) Suspending judgment.

14 (2) Placing him or her upon probation.

15 (3) Suspending his or her right to practice for a period not exceeding one year.

16 (4) Revoking his or her license.

17 (5) Taking any other action in relation to disciplining him or her as the board in  
18 its discretion may deem proper.

19 (c) The board may refuse a license to any applicant guilty of unprofessional  
20 conduct.

21 ...

22 (d) The board may initiate disciplinary proceedings to revoke or suspend any  
23 probationary certificate of licensure for any violation of the terms and conditions of  
24 probation. Upon satisfactory completion of probation, the board shall convert the  
25 probationary certificate to a regular certificate, free of conditions.

26 (e) The proceedings under this article shall be conducted in accordance with  
27 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
28 Government Code, and the board shall have all the powers granted therein. The  
action shall be final, except that the propriety of the action is subject to review by the  
superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

### STATUTORY PROVISIONS

6. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of  
unprofessional conduct or whose license has been procured by fraud or  
misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
not limited to, any of the following:

...

1 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
2 deceit, or corruption, whether the act is committed in the course of relations as a  
3 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

4 ...

5 (j) The violation of any of the statutes of this state, or any other state, or of the  
6 United States regulating controlled substances and dangerous drugs.

7 ...

8 (l) The conviction of a crime substantially related to the qualifications,  
9 functions, and duties of a licensee under this chapter. The record of conviction of a  
10 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
11 States Code regulating controlled substances or of a violation of the statutes of this  
12 state regulating controlled substances or dangerous drugs shall be conclusive  
13 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
14 be conclusive evidence only of the fact that the conviction occurred. The board may  
15 inquire into the circumstances surrounding the commission of the crime, in order to  
16 fix the degree of discipline or, in the case of a conviction not involving controlled  
17 substances or dangerous drugs, to determine if the conviction is of an offense  
18 substantially related to the qualifications, functions, and duties of a licensee under this  
19 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
20 contendere is deemed to be a conviction within the meaning of this provision. The  
21 board may take action when the time for appeal has elapsed, or the judgment of  
22 conviction has been affirmed on appeal or when an order granting probation is made  
23 suspending the imposition of sentence, irrespective of a subsequent order under  
24 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
25 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
26 dismissing the accusation, information, or indictment.

27 ...

28 (p) Actions or conduct that would have warranted denial of a license.

7. Section 4059.5 of the Code states:

(a) Except as otherwise provided in this chapter, dangerous drugs or dangerous  
devices may only be ordered by an entity licensed by the board and shall be delivered  
to the licensed premises and signed for and received by a pharmacist. ...

8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
revoke a license on the ground that the licensee has been convicted of a crime substantially  
related to the qualifications, functions, or duties of the business or profession for which the  
license was issued.

### COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Conviction)**

5 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
6 section 4300, subsection (a) for violating section 4301, subsection (l) and section 490 in that  
7 Respondent has been convicted of the following crimes, which are substantially related to his  
8 duties as a pharmacy technician, as follows:

9 a. On or about March 12, 2013, in a criminal proceeding entitled *People v. Casey, Jason*  
10 *Daniel* in Stanislaus County Superior Court, Case Number 1444526, Respondent was convicted  
11 on his plea of *nolo contendere* for violating Health and Safety Code section 11350(a), possession  
12 of a controlled substance, a felony, and Penal Code section 211, robbery, a felony. The  
13 circumstances of the crime are that on or about May 2, 2012, after having been released from jail  
14 that morning, Respondent entered Kaiser Hospital pharmacy waiting area and stayed close by to  
15 the 78 year-old victim, MT who was filling a prescription for pain medications for herself and her  
16 husband. Once MT left the building, Respondent followed the victim and her husband to their  
17 car, forcibly removed the prescription bag from MT's person, shoving her in the process, and ran  
18 away.

19 b. On or about February 1, 2012, in a criminal proceeding entitled *People v. Casey,*  
20 *Jason Daniel* in Stanislaus County Superior Court, Case Number 1435297, Respondent was  
21 convicted on his plea of *nolo contendere* for violating Health and Safety Code section 11173(a),  
22 obtaining a controlled substance by fraud, a misdemeanor. The circumstances are as follows:  
23 On or about August 1, 2011, Respondent called Target Pharmacy in Turlock California and  
24 falsely identified himself as a representative of Doctor's Medical Center Emergency Room. He  
25 ordered a prescription for Tussionex for a patient, who was not in fact a patient at Doctor's  
26 medical Center Emergency Room. The individual in whose name Respondent called the  
27 prescription was his mother. On or about August 4, 2011, Respondent attempted to pick up the  
28 prescription. Respondent was detained and subsequently arrested by Turlock Police Department.

1 Respondent initially denied knowing what the prescription was and later admitted that he called  
2 in the prescription, that he was addicted to narcotics and that the prescription was for his own  
3 personal use.

4 c. On or about October 26, 2010, in a prior criminal proceeding entitled *People v.*  
5 *Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number 1424520, Respondent  
6 was convicted on his plea of *nolo contendere* for violating Penal Code section 496(A), receiving  
7 stolen property, a misdemeanor. Respondent was placed on three years of informal probation.  
8 The circumstances are that on or about October 11, 2010, Respondent willfully, unlawfully and  
9 feloniously bought, received, concealed, sold, withheld, or sold property of another, knowing that  
10 said property had been stolen.

#### 11 **SECOND CAUSE FOR DISCIPLINE**

##### 12 **(Violation of Laws Regulating Controlled Substances/Dangerous Drugs)**

13 11. Respondent is subject to disciplinary action for unprofessional conduct under section  
14 4300, subsection (a), for violating section 4301, subsection (j) in that Respondent violated laws  
15 regulating dangerous drugs and controlled substances, as more fully set forth in paragraphs 10 (a)  
16 and (b), above.

#### 17 **THIRD CAUSE FOR DISCIPLINE**

##### 18 **(Fraudulent Order of Dangerous Drugs)**

19 12. Respondent is subject to disciplinary action for unprofessional conduct under section  
20 4300, subsection (a), for violating section 4059.5 in that Respondent fraudulently ordered a  
21 dangerous drug without having the proper licensing authority to do so, as further set forth in  
22 paragraph 10 (b).

#### 23 **FOURTH CAUSE FOR DISCIPLINE**

##### 24 **(Dishonest Acts)**

25 13. Respondent is subject to disciplinary action for unprofessional conduct under section  
26 4300, subsection (a), for violating section 4301, subsection (f) in that Respondent committed  
27 dishonest acts, as further set forth in paragraphs 10 and 12, above, individually and collectively.

28 ///



1 DISCIPLINE CONSIDERATIONS

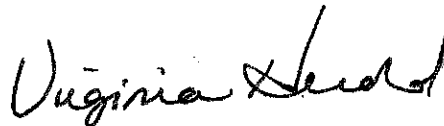
2 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges that on or about April 14, 2011, in a prior disciplinary action entitled *In the*  
4 *Matter of the Citation and Fine Against Jason Daniel Casey* before the Board of Pharmacy, in  
5 Case Number CI 201045983, Respondent's license was cited for unprofessional conduct in  
6 violation of Code section 4301, subsection (f), dishonest acts, and 4301, subsection (l), criminal  
7 conviction, for the following: on or about October 26, 2010, in a prior criminal proceeding  
8 entitled *People v. Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number  
9 1424503, Respondent was convicted on his plea of *nolo contendere* for violating Penal Code  
10 section 487(a), grand theft, a misdemeanor. The circumstances are that on or about October 8,  
11 2010, Respondent willfully and unlawfully took the property of another of a value exceeding four  
12 hundred dollars (\$400.00). The decision from the citation is now final and is incorporated by  
13 reference as if fully set forth.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Pharmacy issue a decision:

- 17 1. Revoking or suspending Technician Registration Number TCH 85822, issued to  
18 Jason Daniel Casey;  
19 2. Ordering Jason Daniel Casey to pay the Board of Pharmacy the reasonable costs of  
20 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
21 125.3;  
22 3. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: 5/18/16



25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

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